



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,624	04/08/2004	William J. Hentges	026032-4708	8487

26371 7590 01/26/2007  
FOLEY & LARDNER LLP  
777 EAST WISCONSIN AVENUE  
MILWAUKEE, WI 53202-5306

EXAMINER
----------

HAWK, NOAH CHANDLER

ART UNIT	PAPER NUMBER
----------	--------------

3636

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/26/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No. 10/820,624	Applicant(s) HENTGES ET AL.	
	Examiner Noah C. Hawk	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 5, 10, 14, 16, 24 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-9, 11-13, 15, 17-23, 25 and 27-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-4, 6-9 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "configured for actuation... of the vehicle" in lines 6-7 of claim 1 renders the claims indefinite. The rear of the vehicle is independent of the seating arrangement and could potentially be on any side of the vehicle seat, depending on which direction the seat is mounted. Clarification is required. For the purposes of examination, the "rear of the vehicle" shall be considered equivalent to the rear of the seat.
3. Claims 3, 4, 6-9 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 3 and 4 recite the limitation "the first actuator". There is insufficient antecedent basis for this limitation in the claims. For the purposes of examination, the "first actuator" and the "first mechanism" will be treated as equivalent elements.
4. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim recites structural limitations directed to a vehicle in

Art Unit: 3636

which the seating system is to be installed. Depending on which side of the vehicle the seat is to be installed on, the position of the actuators would have to be different in order for them to be adjacent to a side of the vehicle. Clarification is required.

5. Claim 29 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim recites structural limitations directed to a vehicle in which the seating system is to be installed. Depending on which side of the vehicle the seat is to be installed on, the position of the actuators would have to be different in order for them to be adjacent to a side of the vehicle. Clarification is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-4, 7-9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Benoit et al. in US Patent 6007153. Benoit teaches a seating system for a vehicle seat having a seat bottom (2) a seat back (4) interconnected in a pivoting manner so that the seat back is configured for movement between an upright seating position and a horizontal stowed position and a positioning system (comprising at least 9 10, and 7) configured to move the seat back between the positions and configured for actuation by a user from a rear portion of the vehicle (the rear portion of the seat). Benoit teaches

Art Unit: 3636

that the positioning system further comprises a first mechanism comprising a handle member (9) proximate an upper corner of the seat back configured for pivotal movement and a second actuator (7) comprising a handle device disposed proximate a lower corner of the seat back (the handle is proximate the lower front corner of the seat back) configured to actuate the first mechanism/actuator. Benoit further teaches that the handle device is coupled via a flexible member (10: a cable is considered flexible) and further comprises a rotary retraction device (spring 21 acts to bias the handle device in a rotary manner) configured to return the handle device to a stowed position.

8. Claims 12, 13, 15, 17, 20 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Benoit et al. in US Patent 6007153. Benoit teaches a positioning system comprising a release mechanism (5) actuatable between a first position to permit movement of a seat back and a second position to prevent movement of a seat back, a first actuator (9) disposed on a seat back proximate to the upper corner, and a second actuator (7) disposed on a seat back proximate a lower corner. Benoit teaches that the first actuator (9) is a pivotally actuated handle member and that the second actuator is a substantially flexible member (10) coupled to a gripping member (7) and an upper portion (best seen in Figure 2) of the seat back. Benoit also teaches that the first and second actuators are at least partially recessed within a rear surface of the seat back (because the flexible member is contained within the rear surface of the seat, the second actuator is considered at least partially recessed). Benoit further teaches that the first and second actuators are positioned on the seat back (4) adjacent a side of the vehicle (mounting the seat on the left side of the vehicle would place the actuators

Art Unit: 3636

adjacent a side of the vehicle) and that the second actuator is returned to a stowed position by a spring mechanism (21). Please note that the limitation "so that the seat back ... behind the vehicle" in lines 9-12 of Claim 12 is considered functional language and do no impart significant structural limitations to the claim and is therefore given very little patentable weight.

9. Claims 22, 23, 25, and 27-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Benoit et al. in US Patent 6007153. Benoit teaches a system for moving a seat back in a vehicle between storage and seating position, the system comprising a first actuator comprising a pivotally actuated handle member (9) disposed proximate an upper corner of the seat back and a second actuator comprising a flexible extension member (10) and a gripping member (7) disposed a lower corner of the seat back, wherein the first actuator is configured to be actuated by a user from the side of the vehicle (the user need only reach around the seat to grab handle 9) and the second actuator is configured to be actuated by a used from a rear of the vehicle (the user need only reach around the side of the seat to grasp handle 7). Benoit also teaches that the first and second actuators are at least partially recessed within a rear surface of the seat back (because the flexible member is contained within the rear surface of the seat, the second actuator is considered at least partially recessed). Benoit further teaches that the first and second actuators are positioned on the seat back (4) adjacent a side of the vehicle (mounting the seat on the left side of the vehicle would place the actuators adjacent a side of the vehicle). Benoit teaches that the first actuator is provided in a recess of a back panel of the seat back (best seen in Figure 2) and is extendable from

the recess and retractable to the recess be a spring device (21). Please note that the limitation "so that the seat back ... the rear of the vehicle" in lines 6-8 of Claim 22 is considered functional language and do not impart significant structural limitations to the claim and is therefore given very little patentable weight.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Benoit et al. as applied to Claim 3 above in view of Chang in US Patent 5433507. Benoit fails to teach a spring biasing the seatback into the seating position. Chang teaches a folding seat with a spring (34) coacting with the seat back to bias it towards a seated position (see Column 3, lines 49-52). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Benoit et al. by adding a spring to bias the seat back toward an upright position as taught by Chang in order to reduce the effort needed by the user to raise the seat back.

12. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Benoit et al. as applied to Claim 12 above in view of Kargilis et al. in US Patent 5570931. Benoit fails to teach two seat back sections. Kargilis teaches a foldable seat having two seat back sections (28). It would have been obvious to one of ordinary skill in the art at the

time of invention to modify the device of Benoit by using two seat back sections as taught by Kargilis in order to allow the user to fold down on section at a time to accommodate the most cargo and passengers at once.

13. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Benoit et al. as applied to Claim 12 above in view of Chang in US Patent 5433507. Benoit fails to teach a spring biasing the seatback into the seating position. Chang teaches a folding seat with a spring (34) coacting with the seat back to bias it towards a seated position (see Column 3, lines 49-52). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Benoit et al. by adding a spring to bias the seat back toward an upright position as taught by Chang in order to reduce the effort needed by the user to raise the seat back.

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Castagna, Charras et al., Deptolla and Smuk teach folding seats with two actuators. Habedank and Kamida et al. teach folding seats with flexible grasping members. Kimura et al., teaches a folding seat.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Noah C. Hawk whose telephone number is 571-272-1480. The examiner can normally be reached on M-F 9am to 5:30pm.

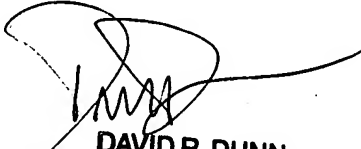


Art Unit: 3636

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NCH  
NCH  
1/18/07

  
DAVID R. DUNN  
PRIMARY EXAMINER